

EXHIBIT 8

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EX PARTE APPLICATION)	CASE NO: 2:10-CV-8583-ODW-SH
PURSUANT TO 28 U.S.C. 1782)	
OF DENORO INVESTMENTS LIMITED,)	
ET AL.,)	CIVIL
)	
Plaintiffs,)	
)	Los Angeles, California
vs.)	
)	Friday, November 12, 2010
ASHOT EGIAZARYAN,)	
)	(10:10 a.m. to 11:17 a.m.)
Defendant.)	

IN RE APPLICATION)	
PURSUANT TO 28 U.S.C. SECTION)	
1782 OF DENORO INVESTMENT)	CASE NO: 2:10-MC-00387(SH)
LIMITED,)	
)	
Plaintiff,)	
)	
vs.)	
)	
DENORO INVESTMENTS LIMITED,)	
)	
Defendant.)	

EX PARTE APPLICATION, MOTION TO COMPEL
AND APPLICATION TO QUASH SUBPOENA

BEFORE THE HONORABLE STEPHEN J. HILLMAN,
UNITED STATES MAGISTRATE JUDGE

Appearances:	See next page
Court Reporter:	Recorded; CourtSmart
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APPEARANCES FOR:

Plaintiffs:

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Defendants:

STEPHEN A. MANSFIELD, ESQ.
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Courtroom Deputy:

Sandra L. Butler

1 Los Angeles, California; Friday, November 12, 2010; 10:10 a.m.

2 (Call to Order)

3 THE CLERK: Magistrate Judge presiding. Calling Case
4 Number CV-10-8583, also Case Number 10-MC-387. This is in the
5 matter of the Ex Parte Application pursuant to 28 U.S.C. 1782
6 of Denoro Investment, Limited. Counsel, please enter your
7 appearance for the record.

8 THE COURT: And the cross motion.

9 MR. MANSFIELD: Good morning, your Honor, Steve
10 Mansfield and Chad Stegeman of Akin Gump for Denoro Investments
11 Limited.

12 THE COURT: Good morning.

13 MR. SUH: Good morning, your Honor, Maurice Suh
14 appearing on behalf of Mr. Ashot Egiazaryan. With me here at
15 Counsel table is Larry Shore and Daniel Weiss. They are both
16 with Gibson Dunn, as am I.

17 THE COURT: Good morning. I apologize for the brief
18 delay. I was sitting for the Cypriot bar exam, as we all were,
19 I guess.

20 Having gone through all the papers twice -- and I
21 have no reply to either motion; is that correct? I just have
22 oppositions but not --

23 MR. SUH: That's correct, your Honor.

24 THE COURT: Yeah. What it pretty much comes down to
25 for me is I would like to hear from you, Mr. Suh, a response to

1 Denoro's opposition paper which I just received myself a few
2 minutes ago --opposition of Denoro to respondent's ex parte
3 application to quash --

4 MR. SUH: Yes, your Honor.

5 THE COURT: -- and I just would like your response on
6 the four Intel factors.

7 MR. SUH: Thank you, your Honor. Judge, as I
8 prefaced to my comments about the Intel factors, I think it's
9 valuable for us to put into context how the Intel factors, we
10 believe, set forth to guide this Court about the critical issue
11 of extending this Court's power into a foreign proceeding that
12 will materially impact both the Cyprus action as well as the
13 London arbitration. We believe that the Intel factors are
14 focused on the appropriate measure of comity and respect for
15 the foreign jurisdiction. We believe that this is not a
16 mechanistic application of the factors but a holistic
17 application of them to judge that very impact and when we
18 examine them as they are here, we believe there is no
19 justification for permitting Mr. Egiazaryan's deposition at
20 this time in these very complicated matters with the many
21 parties at issue.

22 It comes down to we believe there are two fundamental
23 pillars of Denoro's argument and they come right out of the
24 opposition to our motion to quash. The first is Denoro wants
25 Mr. Egiazaryan's deposition because -- and I'm reading from

1 Page 7 -- that they think it will be more compelling and let me
2 quote it exactly. "Denoro's denial of facts alleged in the
3 affidavit with which the Cyprus Plaintiffs obtained
4 the Cyprus order will not be as compelling as
5 Mr. Egiazaryan's own admissions that he misstated or
6 admitted material facts in that affidavit" and that
7 Egiazaryan is Artem (phonetic) Egiazaryan, the affiant in the
8 case.

9 The second pillar of their argument is contained on
10 Page 8 that in essence this Court should simply order the
11 deposition of Ashot Egiazaryan and let the Cypriot Court sort
12 out its admissibility. We believe these two pillars seek to
13 fundamentally re-write the law under Section 1782, that if it
14 was always the case that simply that the moving party wanted to
15 have in their opinion a discovery procedure which they felt was
16 better than that was afforded to them, in many cases that
17 discovery would always be ordered when directed to U.S.
18 discovery procedures and secondly, of course, that the argument
19 that somehow the depositions would simply be ordered and then
20 let the foreign jurisdiction sort it out would be an abdication
21 of the Intel factors. In that case we never would need to
22 examine either one of those.

23 And when we look at these -- the two fundamental
24 pillars of their opposition, I think it in fact attempts to, as
25 I've mentioned, rewrite the law on Section 1782 and those four

1 factors which we will examine I guess in greater detail right
2 now.

3 So on the first factor, we think that in response to
4 our argument that of course Mr. Ashot Egiazaryan is not just a
5 party but he is the plaintiff in the action that the issue is
6 really not whether or not they would prefer to have the
7 deposition testimony of Mr. Egiazaryan but in fact whether or
8 not that information, the evidence, is in fact available to
9 Denoro and that is in fact precisely the situation --

10 **THE COURT:** What do you mean "available"?

11 **MR. SUH:** Available to Denoro in that Mr. Egiazaryan
12 -- Artem Egiazaryan is subject to cross examination on his
13 affidavit and the reason why ostensibly the deposition of Ashot
14 Egiazaryan is sought by Denoro is for the purpose of testing
15 whether or not there is missing or incomplete or false
16 information in Artem Egiazaryan's affidavit.

17 Now, that evidence is in fact available to Denoro
18 through the cross examination of Artem. Denoro has made the
19 decision that for them, it is better for them to in fact simply
20 try to get this through Ashot Egiazaryan but that really isn't
21 the test under Intel Factor Number 1. Intel Factor Number 1
22 really looks at whether or not the evidence is obtainable.
23 Whether or not the evidence obtainable is the key factor and
24 that factor -- that is exactly the case here and there are two
25 things, I think, that highlight this difference between what

1 the law is and what Denoro attempts to do here.

2 The first thing is it is clear they have not tried to
3 do anything in order to get that evidence and secondly -- and I
4 guess the key point there is that they had the -- they have the
5 ability to get documents from Artem Egiazaryan as well as from
6 Ashot Egiazaryan but instead they've elected to go straight to
7 the deposition. They have not done anything in order to
8 determine whether or not the evidence is obtainable and this is
9 not --

10 **THE COURT:** And that would be via the London
11 arbitration or the Cyprus action?

12 **MR. SUH:** By the Cypriot -- the Cypriot rules. The
13 Cypriot rules permit for this and I think these facts really
14 highlight the difference between the *Servico* case which is
15 repeatedly cited by Denoro's Counsel and what is in fact
16 present here because in *Servico*, what we had there is the
17 non-moving party resisted attempts to get the underlying
18 foundational evidence which would have allowed that evidence to
19 be used in the Venezuelan court. There was an affirmative
20 effort by the parties in the foreign jurisdiction to get that
21 evidence and it was because there was a resistance to get it in
22 that jurisdiction, it was unobtainable and the Court commented,
23 well, we have a corporation located in our district. This is a
24 technical violation and this renders it a very unique
25 circumstance.

1 Those circumstances don't exist here and, in fact, if
2 the Court were to apply Intel Factor 1 against Mr. Ashot
3 Egiazaryan in this circumstance, that Intel Factor 1 would be
4 meaningless because in many places in the world, there is
5 nothing more powerful compared to their procedures than a
6 videotaped, transcribed deposition, especially at the stage
7 that they seek to use it and in many ways parties -- moving
8 parties would always be able to say, we like this better. They
9 would come into Court -- the U.S. Court and say, we would like
10 to get this discovery tool.

11 We haven't done anything in the foreign court to try
12 to obtain the very evidence and we want to get it against the
13 party and, again, we have not been able to identify any case
14 that says that such a great extension of the law under Intel
15 Factor Number 1 and so we think Intel Factor 1, we would
16 submit, your Honor, squarely weighs in favor of Mr. Ashot
17 Egiazaryan and furthermore that the case that they cite,
18 Servico, is an example of precisely why that is true.

19 With respect to Intel Factor Number 2, again I think
20 this issue is also squarely in Mr. Ashot Egiazaryan's favor
21 because the Cypriot Court cannot and will not consider any
22 deposition examination of anyone at this stage in the
23 injunction proceeding and this is something, again, out of
24 respect for comity and the procedures in the foreign
25 jurisdiction, we submit that U.S. Courts should not get

1 involved.

2 Again, there are many procedures in place in foreign
3 jurisdictions around the world where depositions are not
4 permitted at preliminary stages and that's exactly what we have
5 here, a very preliminary stage. There is -- I would note that
6 Denoro has repeatedly stated in its opposition papers that the
7 Court has not issued any rulings or made any statements that it
8 would not receive evidence that was developed in the United
9 States. I feel that this is -- really only tells half the
10 story and, in fact, provides an inaccurate picture of what has
11 happened here because the issues that we're talking about here
12 have never in fact been raised in the Cypriot Court and thereby
13 would allow the Court to comment on it in the first instance.

14 So the Cypriot Court is sitting there unknowledgeable
15 about this procedure going on here in the United States and in
16 fact it has not received any requests to get any of the
17 evidence with which they would otherwise be entitled under
18 Cypriot rules.

19 **THE COURT:** Would it be helpful to them on an
20 international basis to see that we are assisting the procedures
21 and letting them make the final decision as to admissibility?

22 **MR. SUH:** Well, Judge, I think we would submit in
23 that circumstance that if that were the case, then we would
24 never need any of the Intel factors. If the point is simply to
25 always allow the moving party to get their Section 1782 relief,

1 to then throw it back to the other foreign jurisdiction to make
2 the decision, we feel that would be a -- in fact, an abdication
3 of the Section 1782 factors.

4 And might I add one thing here which I'll get to in a
5 moment? Because this is holistic approach to the situation at
6 hand, even if that were true, Judge -- even if it were true
7 that in some circumstances we would do that, we would strongly
8 urge the Court not to do it here because, as I'll talk about,
9 there are real -- there's a real prejudicial effect for
10 Mr. Ashot Egiazaryan. This is not a simple proceeding
11 occurring by itself alone. This is a proceeding which is part
12 of the London arbitration which, again, has its own set of
13 rules and as I'll speak more about in a moment, that he would
14 suffer severe prejudice.

15 So even if it were true, Judge, that in some
16 circumstances we would order the -- you would order the
17 requested deposition but then turn around and allow the foreign
18 jurisdiction the decision about its admissibility, there are
19 many factors here that would render it, we believe, very
20 inappropriate in the circumstance.

21 With respect to Intel Factor Number 3 --

22 **THE COURT:** One thing on 2, and I have not had a
23 chance to read the case law in the opposition brief but there
24 is a Ninth Circuit case I see, *Advanced Micro Devices*, noting
25 the Court rejected a requirement regarding admissibility in the

1 foreign tribunal citing another Ninth Circuit case. Do you
2 have any comment on that case -- those cases?

3 **MR. SUH:** I do, Judge. We have seen a long line of
4 citation to cases about just pure admissibility and again we
5 feel that is a very different factor in this case and this goes
6 to whether or not there is a substantive versus a procedural
7 issue about whether or not to admit this evidence. This is not
8 -- we are not asking the Court to make the determination that,
9 for example, there's a hearsay exception or a foundational
10 issue.

11 What we're asking the Court to recognize that under
12 Cypriot procedure -- Cypriot procedural rules, they will not
13 hear this testimony. They will not hear this evidence at this
14 time and part of that is -- arises, as you can from
15 Mr. Javiar's (phonetic) declaration, in the structure of the
16 way the preliminary injunction proceeding is held, that is,
17 that there is in essence a kind of TRO issued and there is an
18 application on that injunction. The affiants are cross
19 examined and the cross examination of those affiants then
20 proceeds forward. We --

21 **THE COURT:** So -- excuse me. So these Ninth Circuit
22 cases, I take it, refer to evidentiary rules, not procedural
23 rules?

24 **MR. SUH:** One moment, Judge.

25 Judge, before I say unequivocally yes, I think I

1 would want to briefly review those cases. But I would like to
2 point out one critical factor that I think would affect the
3 Court's analysis of this, is that these cases dealt with a
4 statutory fact -- the statutory factors, not the discretionary
5 factors at issue; That is, whether admissibility is required to
6 establish one of the statutory factors, and not the
7 discretionary factors in the Intel case.

8 But, your Honor, I think these cases, at base, do
9 nothing to change the analysis that from a structural
10 standpoint these are not raw procedural admissibility
11 arguments, and this argument -- these are the -- this is the
12 exact same issue raised in the opposition to quash on page 10,
13 where Denoro says -- makes the distinction between a
14 substantive limit on the admissibility of discovered evidence
15 versus a procedural limitation.

16 And I think the substantive limitation is exactly
17 what we have here. The substantive limitation is the
18 limitation that under the structure of the Cypress rules and
19 the Cypriot procedure on handling an injunction proceeding,
20 that it is -- it is -- would be -- the Cypriot court would not
21 be receptive to that requested discovery.

22 Lastly -- well, actually, next Intel factor number
23 three: the circumvention of foreign proof-gathering.

24 Again, we'd submit that Intel factor number three is
25 closely tied to Intel factor number two, especially as it

1 applies to substantive limitations here. Again, there is,
2 under the circumvention of foreign proof-gathering issues,
3 there is -- we have the same issues with respect to the absence
4 of Denoro to make any affirmative effort to obtain the evidence
5 that they feel is important or at least the evidence that they
6 have put forward as the reason for the Section 1782.

7 And, again, I would make the point here that this is
8 not an exhaustion of remedies argument, as I think has been
9 made in the opposition papers. It is -- we're not saying that
10 they need to exhaust their remedies. We simply are saying that
11 if they want to fall within the exceptions of these very unique
12 cases like *Servico*, that the facts here simply don't justify
13 it. And if you were to apply the analysis that, again, they
14 are -- that Denoro is using here, the Section 1782 factors
15 would literally be gutted; that we would have persons,
16 applicants, coming in saying, "Well, we want this discovery;
17 it's really -- you know, we really may not be able to use it
18 there, but, Judge, simply order it and let them decide, and we
19 haven't made any affirmative effort to get the evidence, and
20 we're doing it right against a party that's subject to the
21 jurisdiction of that court." And I think when you look at
22 this, again, holistically, this is precisely the kind of case
23 that a Section 1782 deposition should be ordered -- should not
24 be ordered.

25 So, that takes us to Intel factor number three. Most

1 of this is within our papers, but, Judge, I will say that there
2 is a deep concern by our client, as I'm sure the Court is
3 aware --

4 THE COURT: You're talking about the fourth factor
5 now, right?

6 MR. SUH: The fourth factor.

7 THE COURT: Yeah.

8 MR. SUH: Yeah; the fourth factor, which goes to
9 intimidation and harassment.

10 This case is, obviously, part of a series of other
11 matters that are ongoing, not just the London arbitration, but
12 another one, which I will let the Court know about in a moment.
13 But, in essence, there are -- in particular, there have been
14 threats against Mr. Ashot Egiazaryan's wife. Some of those
15 included the allegation that there would be revealed women that
16 he had relationships with. The fact that we have a picture of
17 Ashot Egiazaryan with a woman not his wife has caused
18 significant harm to their marriage. This has all happened
19 within the past week. I can represent to the Court I was at
20 least witness to some of that significant discord.

21 This series of events has been both a shock and very
22 difficult for Mr. Egiazaryan. He's been -- he's undergone
23 surveillance since about September 13th here in the United
24 States, per Denoro's investigator's own declaration, and that
25 surveillance has gone on, including other contacts, up to and

1 including even last night. And I think that the facts related
2 to this, the harassment that is ongoing to Mr. Egiazaryan, are
3 factors that the Court must take into consideration when
4 ordering something as extreme as a videotaped deposition for
5 the purpose that they've made this application.

6 I will say -- and I want to make clear, Judge -- I am
7 not casting any specific aspersion on Mr. Mansfield or
8 Mr. Stegeman or any of the counsel here. We have no indication
9 that the surveillance or anything else was directed by Akin
10 Gump or anyone else. I would represent to the Court that I
11 know Mr. Mansfield; we have known each other for years. I am
12 not making any aspersion against him or his firm.

13 **THE COURT:** I understand that.

14 **MR. SUH:** But it is -- there are other -- I think the
15 problem is there are other undercurrents ongoing in this case
16 which are extremely troubling.

17 And that, in fact, takes us to, I think, the look at
18 the prejudice and the equities broadly here. If the deposition
19 is ordered, that bell cannot be unrung. And we have a deep
20 concern here that, although the Court can issue a protective
21 order with respect to Denoro, there are many, many parties
22 involved in a London arbitration. If the Court is interested,
23 my partner, Larry Shore, who is co-chair of the firm's
24 arbitration -- international arbitration group, who is going to
25 try the arbitration in London, can give you more detail on the

1 parties and how they relate to each other. We even have a
2 chart for some of that if the Court is interested. But I will
3 say that once this deposition transcript is out, it's out in
4 the world, and we don't know how to control it or how it will
5 be used, and certainly, even though a court can issue an order
6 against Denoro, it is impossible to determine where that's
7 going to go.

8 We have a lot of concerns about other things. For
9 example, there is slanderous website up that --
10 www.ashotegiazaryan -- that's not his website. There is
11 nothing on it but information which is both false and
12 slanderous to Mr. Egiazaryan. If this deposition is
13 videotaped, we fully expect that videotape to be posted on that
14 website. If there is an issue related to the London
15 arbitration, we can go and have Mr. Shore address exactly how
16 limited the rights of taking a deposition in connection with
17 that proceeding will be and what the order of it will occur.

18 But I think the main point here is that this is part
19 of a series of other cases. As the Court is aware, the Cypress
20 injunction action is merely the action to prevent the
21 dissipation of assets. This is really tied to the London
22 arbitration; this case is about the London arbitration; and
23 ordering it here would make it impossible to unring the bell or
24 control its use in other -- in the other context.

25 I think the other issue which was raised in our

1 protective order is that there is no ability, at least as it
2 stands now, absent the Court's issuance of a protective order
3 along these lines, to have a deposition of Mr. Karamov --
4 Mr. Karamov is, in fact, Denoro -- and have it work in the same
5 way to allow a reciprocal advantage. If something like a
6 deposition of Mr. Egiazaryan was to go forward, it would only
7 be fair in the context of allowing this early fact-gathering
8 process to have the same thing --

9 THE COURT: I don't think that would be my
10 inclination.

11 MR. SUH: Okay. Thank you, Judge.

12 ~~THE COURT~~: I think I will either grant the motion or
13 deny the motion, but --

14 Mr. Suh ~~THE COURT~~: Thank you, Judge.

15 And the other prejudicial factors are, of course,
16 that Mr. Egiazaryan is here in the United States, as his wife's
17 declaration indicates, because he was -- in essence, received
18 such threats and intimidation that prompted his move here. And
19 in order -- these are the same threats and intimidations as
20 will be developed in the other cases, which have come from the
21 parties, with which he is opposed to, and for them, Denoro and
22 others, to take the unfair advantage of those threats to get
23 deposition testimony that they would not have otherwise been
24 able to get if those threats had not existed would be -- would
25 really be a miscarriage of justice and would be, frankly, wrong

1 in the context of the way this case has unfolded.

2 Lastly -- and I want to be careful how I describe
3 this, because we have only very preliminary information -- but
4 we have recently received information that Mr. Egiazaryan is
5 the subject of a criminal investigation in Russia. We believe
6 that this criminal investigation is closely tied to and
7 prompted by the very parties that he has sued in connection
8 with the London arbitration. And we have not yet closely
9 examined what the potential allegations are, but I did want to
10 put the Court and counsel on notice that Russia has a similar
11 constitutional provision as our Fifth Amendment, and if this
12 deposition were to go forward, we would have to closely examine
13 the impact of what we have been informed in connection with
14 this Russian -- potential Russian proceeding or Russian
15 proceeding and the questions that are being asked.

16 And, again, this also goes back to the inability to
17 unring the bell. If he were to be forced to ask questions with
18 the pending Russian criminal investigation, it would put him in
19 a potential violation of his Article 54 rights. Article 54 is
20 the provision under Russian law which would allow him to claim
21 what is a comparable privilege to the Fifth Amendment. And,
22 so, I did want to put the Court on notice.

23 Two more points, Judge. The exigency that we have
24 repeatedly heard about we believe is no exigency at all. This
25 November 17th hearing date in Cypress is a date which was set

1 by Denoro's counsel. I would note that it was set six weeks or
2 so after the initial appearance in the case and nothing had
3 been done about getting Mr. Ashot Egiazaryan's deposition in
4 place in a more timely fashion, and, so, therefore, that there
5 should be no exigency created by Denoro itself.

6 We also believe that there is no exigency related to
7 any billions of dollars. And that is in large part because
8 Denoro transferred the shares that really would be the only
9 shares that represent billions of dollars in the case at or
10 about the same time the injunction went in place. And, so, in
11 effect, we don't believe at all that there are billions of
12 dollars at issue. Denoro is a shelf company in Cypress. It
13 doesn't, to our knowledge, have any employees or officers or
14 anything else, and we believe it's entirely Mr. Karamov, and
15 that all of that is -- indicates that there is no exigency at
16 all here. And if the Court needed additional time for its
17 consideration of all the issues in place, we would --

18 **THE COURT:** You would be happy to give me the time.

19 **(Laughter)**

20 **MR. SUH:** We would be happy to stipulate to move the
21 November 17th date in Cypress and cooperate with counsel to do
22 that so there is no hearing date, even though that the
23 deposition transcript, we believe, and have submitted to our
24 Cypriot counsel, would not be admissible in any case in
25 connection with the November 17th hearing.

1 So, I believe I have taken -- I have addressed the
2 Intel factors and talked about the prejudice issues that are at
3 hand here. Judge, there is a discussion we would have about
4 some of the protective order components. I think that I would
5 hold on that, given the Court's comment, and if the Court
6 wanted to ask specific questions about our recommendation for a
7 protective order, that would be -- that would be fine.

8 **THE COURT:** I think until I decide the main motion,
9 that's premature.

10 **MR. SUH:** All right.

11 **THE COURT:** And we could do that telephonically if it
12 reaches that point.

13 Mr. Mansfield?

14 Thank you.

15 **MR. MANSFIELD:** Thank you, your Honor.

16 Mr. Egiazaryan obtained an ex parte order freezing
17 billions of dollars of assets which each day have caused
18 irreparable harm and prejudice to my client, Denoro Investments
19 Limited. What we're asking for is, and what we have obtained
20 from this Court, is a deposition subpoena in order to obtain
21 discovery to challenge that freezing order in the Cypress
22 court. There is a substantial risk, we understand from our
23 counsel in the Cypress action, that if we do not get this
24 deposition done before the 17th, it will not be accepted by the
25 Court there. This is our initial first opportunity --

1 **THE COURT:** Where is there a declaration that says if
2 you do get the deposition it will or may be considered by the
3 Cypress Court?

4 **MR. MANSFIELD:** It's in -- I'm going to say G.T.'s
5 declaration because I have difficulty pronouncing --

6 **THE COURT:** I know who you mean.

7 **MR. MANSFIELD:** -- paragraph 5 of his declaration.

8 **THE COURT:** And read me that paragraph, please, or at
9 least the pertinent part.

10 **(Pause)**

11 **MR. MANSFIELD:** This is the paragraph that indicates
12 that the Court will accept as an exhibit a deposition in
13 connection with the proceeding, but I think the Court's
14 question was with respect to the date, November 17th?

15 **THE COURT:** With respect to the upcoming hearing in
16 Cypress.

17 **MR. MANSFIELD:** Oh, then it's paragraph 5 and it's
18 what I just read, lines 11 through 13.

19 **THE COURT:** If you could read it to me so I don't
20 find it here.

21 **MR. MANSFIELD:** I'm sorry.

22 "Further, under Cypriote Civil Procedure Rules, in my
23 opinion, out of court evidence is allowed in
24 applications for interim injunctions like the present
25 one and, therefore, the Court will admit as an

1 exhibit to an affidavit the sworn evidence of a
2 person taken abroad."

3 **THE COURT:** An exhibit to an affidavit by an affiant,
4 right?

5 **MR. MANSFIELD:** Right. The Court would accept the
6 transcript as an exhibit to an affidavit submitted in the
7 Cypress Court. So, you'd submit an affidavit and attached to
8 it would be the transcript of the deposition -- the sworn
9 testimony.

10 **THE COURT:** You think that the attorney could be the
11 affiant and attach the deposition transcript?

12 **MR. MANSFIELD:** Yes. That's how the procedure works
13 there.

14 **THE COURT:** Hold on to that thought, because I want
15 to hear your response. Okay. Yes?

16 **MR. MANSFIELD:** So, the purpose of this deposition,
17 your Honor, is solely focused and exclusively focused on the
18 Cypress action. There's been comment and papers and an
19 argument today about an arbitration in London. There is no
20 intent to use this in any way in the London arbitration. If
21 the Court were to issue an order that limited it solely to the
22 Cypress action we would not oppose that. That's all we want it
23 for. We would sign a stipulation to that effect. It's just to
24 clear the air.

25 There is no interest or strategy of using this

1 deposition in connection with the London arbitration. The
2 purpose is to effectively challenge what has occurred in the
3 Cypress Court, which has damaged our client in terms of the
4 freezing order. It is that simple and straightforward.

5 With respect to the four factors, if I could briefly
6 review them, your Honor?

7 **THE COURT:** Just tell me again what evidence I have
8 before me of irreparable daily ongoing harm to Denoro. There
9 was one declaration that was fairly conclusory, but I don't
10 know whose declaration that was.

11 **(Pause)**

12 **MR. MANSFIELD:** In Exhibit A to -- we'll call them
13 G.T.'s declaration -- paragraph 9, and this is the order at
14 issue. "And this Court further orders and prohibits directors
15 of Denoro Investments Limited, its officers and
16 representatives" --

17 **THE COURT:** That's the order --

18 **MR. MANSFIELD:** Yes.

19 **THE COURT:** -- but what's the ongoing harm as we
20 speak? Is there any evidence of exigent circumstances or
21 interruption to Denoro's businesses or --?

22 **MR. MANSFIELD:** Well, your Honor, by virtue of the
23 order, they're unable to engage in any of the real estate
24 financing business activities because of the imposition of the
25 freezing order. They can't operate as a real estate investment

1 business. It locks them up. There's simply nothing -- they
2 can't operate.

3 THE COURT: But the other side says apparently that a
4 lot of funds were transferred right prior to the injunction.

5 MR. MANSFIELD: I haven't seen any of it to that
6 effect, your Honor, at all, other than the representations.

7 THE COURT: It may be a wash for my purposes. There
8 may just be a draw on this issue. But go ahead. You were
9 going to talk about the Intel factor.

10 MR. MANSFIELD: Intel factors. I wanted to start
11 with what is often referred to as the fourth factor first,
12 because I think it sort of sets the stage for this. This Court
13 is sort of being asked to be sitting in the place of a Cypress
14 Court judicial official making decisions and that's not
15 necessary under 1782.

16 What we're seeking is a deposition, plain and simple.
17 It is not burdensome; no documents whatsoever have been
18 requested. It is only for use in the Cypress action; no way
19 used in any other way for any other litigation; a one-day
20 discovery event. That's what we're looking at.

21 The Court properly exercised its discretion in
22 issuing the deposition subpoena based on the factors because
23 this type of discovery is not available in the foreign
24 proceedings. And as the declaration of G.T. demonstrates, the
25 Cypress Court would not be hostile to receiving a transcript of

1 this deposition in connection with the Cypress proceedings.

2 Now, I know that Mr. Egiazaryan's counsel have
3 produced an opposing deposition on the point. They disagree
4 about its admissibility and its receipt in evidence. That
5 leads to the question that I think the Court referred to
6 earlier of admissibility. That is not a question for this
7 Court. It's the question for the Cypress Court at the end of
8 the day, what they will admit and what they will not admit.
9 But that shouldn't influence the strict application of 1782
10 factors in granting the opportunity to take the deposition.

11 The factor about circumventing substantive Cypress
12 discovery limitations; I want to clear this up a bit. There's
13 a distinction that we see in the case law when the Courts talk
14 about this third *Intel* factor between substantive limitations
15 and procedural. And I do think they make it quite clear what
16 the difference is and the clarity is in our favor and the
17 *Servicio Pan Americano* case probably says it in the clearest
18 way, but in short, what they're talking about there is if
19 there's a substantive limitation, they mean an issue of
20 privilege. You can't go there. It's privileged. And if
21 you're trying to use 1782 to circumvent a rule prohibiting
22 invasion of privilege or some other protected, inadmissible
23 area, that's a substantive limitation.

24 Procedural limitations about what might be available
25 in the Rules of Civil Procedure in the Cypress Court are not

1 considered circumventing. And the language on page 6 of the
2 *Servicio Pan Americano* case, I think, says it very clearly in
3 referencing the Supreme Court's decision in *Intel*.

4 "The Supreme Court recognized in the *Intel* case that
5 a foreign Court's procedural discovery limitations,
6 as opposed to substantive limits on the admissibility
7 of discovered evidence, should not prevent a district
8 court from enabling a foreign litigant to obtain
9 admissible evidence here to Section 1782."

10 And I think that really does clear up what we're
11 dealing with here. This is not a circumvention of a
12 substantive Cypress limitation at all.

13 **THE COURT:** Doesn't that depend on which attorney I'm
14 persuaded by? Which declaration I'm persuaded by?

15 **MR. MANSFIELD:** I would say no, your Honor, because I
16 think at the end of the day the Cypress Court is the Court that
17 makes the decision. This Court -- 1782 and as you read -- as
18 one reads *Intel* and the other cases, this is a broad effort in
19 this statute to encourage discovery for purposes of efficiency
20 and reciprocity. And so, it is a statutory vehicle that is
21 about encouraging and being broad, as long as you meet the
22 discretionary factors, obviously. It's not without limits.

23 But if you meet those discretionary factors, it is
24 about allowing and encouraging the gathering of evidence to
25 encourage other countries to reciprocate in the future. But

1 it's always left to the tribunal litigating the matter and that
2 judge to make those decisions about admissibility and its own
3 laws within the jurisdiction.

4 And really, I think what this comes out to is a very
5 straightforward application for a non-burdensome, seven-hour
6 deposition. We're prepared to begin it today or finish it
7 today if we can. The Court, I think properly, ~~waived~~^{weighed} the
8 factors and exercised its discretion in granting the deposition
9 subpoena. I don't think anything has been --

10 **THE COURT:** That was untested. That was ex parte. I
11 mean, I have the whole thing in front of me now and, obviously,
12 it's a much more complicated question than it was in October.
13 But go ahead.

14 **MR. MANSFIELD:** I wanted to -- having addressed those
15 four factors -- just address a few of the arguments that Mr.
16 Suh raised. A claim of prejudice that they're making that if
17 the deposition is order, the bell cannot be unring. Well, with
18 all due respect, we disagree.

19 I mean, if we go forward with the deposition, and I
20 believe we should under 1782, they will have an opportunity to
21 argue in the Cypress Court that it should not be admitted.
22 That's the only Court we're looking at here. So, if they want
23 to call that unringing the bell, they get to challenge it
24 later, but we get to have our 1782 rights and go forward. So,
25 then can unring the bell. There's no prejudice there. We're

1 in the course of a discovery procedure.

2 The second claimed prejudice is that, well, if you
3 order a deposition it's going to get out and it will prejudice
4 them. I don't believe if there really is a need, and I don't
5 believe there's a need, but if there really is an articulated
6 need to take steps to prevent against dissemination, including
7 orders covering counsel, I mean, we're capable of doing those
8 things. In certain cases, Courts make those orders and we
9 follow orders. So, I don't see any prejudice in doing it. I
10 think it needs to get done to protect Denoro's rights in
11 pursuing its challenge to the freezing order.

12 And there were a few other -- just to address --
13 arguments made about Denoro not moving in a timely fashion in
14 its 1782 application; that we waited until too close to this
15 date that is so important. And I think, frankly, that's
16 unfair. While they didn't challenge the threshold element we
17 needed to prove that Mr. Egiazaryan was in this district, that
18 actually did require some time and effort to prove up and I
19 know that there were comments made about surveillance.

20 But in order to appropriately apply for a 1782
21 application, we needed to have evidence that we could provide
22 to the Court that showed he was, in fact, in the district.
23 That took some time. Obviously, if we could have brought this
24 earlier and we had that evidence, we would have done it. So, I
25 don't think that was a fair criticism of the way in which we've

1 handled our application.

2 And then, lastly, I would add that the notion of
3 attempting to move the November 17th date would have no
4 irreparable harm on us is just simply not true. The terms of
5 the orders essentially lock up the business activities.
6 Obviously, they obtained the freezing order because they wanted
7 to do that. They would love a delay because it continues the
8 order that they obtained ex parte.

9 We haven't had a chance yet -- we haven't had a
10 chance as we're having today to actually address that in the
11 Cypress Court. So, moving that date back would be grossly
12 unfair to us and continue the prejudice and irreparable harm to
13 us. And we would be very opposed to that.

14 **THE COURT:** Any brief comment about the potential
15 Russian prosecution?

16 **MR. MANSFIELD:** I don't know personally anything
17 about it. I don't -- the first I learned about it was hearing
18 Mr. Suh say what he said today. I wasn't aware of those things
19 and it has no relevance as far as we are concerned. This is a
20 very narrowly focused, specifically tailored effort to get a
21 one-day deposition, no documents, in order to effectively avail
22 ourselves of our rights to challenge a freezing order covering
23 billions of dollars and we're entitled under 1782 and we would
24 ask that the Court allow the deposition to go forward this
25 afternoon.

1 Thank you, your Honor.

2 **THE COURT:** Thank you. Yes?

3 **MR. SUH:** Judge, may I remain at counsel table? I
4 have --

5 **THE COURT:** Sure. Of course.

6 **MR. SUH:** -- all the declarations in front of me.
7 Judge, we'll be -- I'll be brief.

8 First, I would like to address, I think, the Court's
9 comment about Cypriot procedure and about which attorney you
10 would be persuaded by in connection with the Cypriot
11 injunction.

12 I would direct the Court -- first, I'd make the
13 comment that our Cypriot counsel provided a very detailed and
14 thorough declaration which was very specific on each of the
15 points. And contrary to that, I believe Mr. Triantafyllides,
16 their expert, was very careful and cautious in the way he
17 described how this could be used in the Cypriot procedure. And
18 I'd like to read the entirety of Paragraph 5 to you. There are
19 only three substantive paragraphs that address procedures. In
20 Mr. Triantafyllides' declaration. But it reads as follows:

21 Paragraph 5 begins,

22 "Under Cyprus law and procedure, no mechanism exists
23 for taking depositions. However, based on my 30
24 years of case experience in Cyprus courts, the lack
25 of such a formal mechanism does not prevent in my

1 opinion the Court from taking into account deposition
2 testimony taken in other countries such as the United
3 States provided it is produced in court in the proper
4 way.

5 "For example, attached is exhibit to an affidavit
6 filed in Cypress in support of the opposition to the
7 Cypress injunctive proceeding."

8 We then go to the portion that was read in Court:

9 "Further under Cypriot civil procedure rules in my
10 opinion out-of-court evidence is allowed in
11 applications for interim injunctions like the present
12 one; and therefore, the court will admit as an
13 exhibit to an affidavit the sworn evidence of a
14 person taken abroad."

15 I think this is a very carefully drafted paragraph,
16 and we actually read it a number of times and talked about it
17 in great detail with our expert in drafting our declaration.
18 And, you know, I think the fundamental point here is that the
19 -- Mr. Triantafyllides is saying there is -- the lack of such a
20 formal mechanism does not prevent the Court from taking into
21 account deposition testimony which again is very different than
22 the detailed analysis provided by Mr. Haviaras given orders 39
23 and 48 during the procedure. And I think perhaps it would be
24 easier to have the Court, if it wished, review orders 39 and
25 48. But from the way they are written, it is I think to my

1 mind supports Mr. Haviaras' affirm opinion which is repeated
2 throughout his declaration that the -- and I'm reading from
3 Paragraph 26 --

4 "In my opinion, given the procedures prescribed in
5 orders 38 and 48, the Cypriot Court would not only be
6 unreceptive to evidence obtained in a deposition in
7 the United States but also could not accept the
8 transcript of the examination of a non-affiant such
9 as Mr. Ashot Egiazaryan because to do so would
10 contravene the Cypriot civil procedure rules and
11 destroy the integrity of the injunctive proceeding."
12 So I think --

13 **THE COURT:** What is the definition of an affiant?
14 Could it be an attorney attaching a deposition transcript or
15 does it have to be someone with percipient knowledge about the
16 litigation?

17 **MR. SUH:** Judge, I believe that's addressed in the
18 orders but I must admit I can't answer that question right now.
19 But I --

20 **MR. MANSFIELD:** Your Honor, if it would be helpful, I
21 don't there would be dispute but I believe the lawyers are the
22 affiants in the Cyprus court proceedings.

23 **MR. SPEAKER:** That's not true. The Cyprus --

24 **(Several parties reply negatively)**

25 **MR. MANSFIELD:** But we disagree then.

1 MR. SUH: We agree to disagree.

2 But, Judge, I mean, I think one of the things to look
3 at in examining the structure here is that the affiant process
4 is to put forth evidence. If they simply attach Mr.
5 Egiazaryan's deposition transcript, they have to -- they are,
6 in effect, producing no other independent evidence of their
7 own. There would be no opportunity to cross examine their
8 affiant underneath the rules which is what I think the
9 integrity of the injunctive proceeding is about. I mean, would
10 our right be to cross examine the lawyer saying this is the
11 deposition of Ashot Egiazaryan? Of course, it's the deposition
12 of Ashot Egiazaryan. It doesn't allow us the reciprocal right.
13 They have the right to cross examine Artem Egiazaryan. But in
14 our case, if they get -- excuse me. They cross -- yeah, Artem
15 Egiazaryan.

16 In our case, if they attach Asot Egiazaryan's
17 deposition, we are being offered the ability to merely cross
18 examine our own client or cross examine on a fact which is
19 utterly not in dispute which is that this is his deposition
20 transcript.

21 And I think when you look at it in that structure, it
22 just shows you how much this requested discovery is attempting
23 to turn the Cypriot procedure on its head.

24 In essence, it would avoid -- and we would plainly
25 submit, your Honor, the reason why this is being done in this

1 fashion is that no officer or employee can be submitted because
2 frankly, Carimav (phonetic) is Mr. -- Mr. Carimav is Denoro.
3 And in fact, we have counsel for Mr. Carimav present here in
4 the courtroom today. And it's plainly an attempt to circumvent
5 the procedural structure in place in Cyprus.

6 And the fact that their lawyer has carefully crafted
7 a paragraph where he says there is nothing preventing the Court
8 from taking into account this deposition, does plainly -- it's
9 not even -- not even this deposition -- says there's nothing
10 preventing the Court from taking into account deposition
11 testimony. So not even addressed to this -- to an injunction
12 proceeding that I think -- I think this plainly weighs in our
13 favor.

14 I would like to once again say with respect to
15 unringing the bell, we feel quite strongly about this. The --
16 once the deposition transcript is submitted in the Cyprus
17 action, there has been -- once it is to clients and persons
18 involved, in particular we are concerned about Mr. Carimav
19 because he does control and is deeply involved with many of the
20 entities that are part of the London arbitration, there's no
21 way to control that particular transcript. And again, I cast
22 no aspersion on Mr. Mansfield or Mr. Stegeman or Akin Gump but
23 once the transcript is out -- and by the way, this decision --
24 it's claimed that there's no videotape necessary but once the
25 transcript alone is out, there's no way to control it in a

1 foreign jurisdiction. Those parties that could use it in this
2 case are not within this Court's jurisdiction, and there's no
3 way to fashion an appropriate protective order to account for
4 it.

5 And, Judge, just to make clear. We're not saying
6 that any of these issues alone should be determinative. We
7 don't believe any of these issues alone are determinative. But
8 when you take a step back and look at whether or not it is
9 appropriate for a U.S. Court to exercise its power to order
10 this deposition in the context of all of these factors, we
11 think it's -- it is -- it would be plainly inappropriate.

12 I'm going to leave this last point about the billions
13 of dollars for last but I would like to say in advance of that
14 that the need to establish his presence in Los Angeles -- if
15 you turn to --

16 **THE COURT:** I'm sorry. The need to what?

17 **MR. SUH:** Presence -- presence in Los Angeles, your
18 Honor. If you turn to the declaration of Lawrence Wiist, I
19 read from Paragraph 3.

20 "I have been monitoring Mr. Egiazaryan to ascertain
21 his residence starting in mid-September 2010 -- "
22 Mid-September.

23 "-- and continuing on a day-to-day basis to the
24 present date. On 43 occasions and at varying times
25 throughout the day including 9:15 a.m., 12:26 p.m.,

1 2:20 p.m. and 8:26 p.m. I have observed A. Egiazaryan
2 depart from 65 Endrino Place (phonetic), visit
3 different public venues throughout Los Angeles and
4 consistently return.

5 "I most recently -- "

6 "-- returned to 65 Endrino Place.

7 "I most recently observed him on October 24, 2010,
8 depart from 65 Endrino Place and return there
9 visiting a venue in Los Angeles."

10 Forty-three occasions from mid-September. And to
11 review the bidding, your Honor, on the timeline here.
12 September 13th, the London arbitration, request for arbitration
13 was filed. September 15th, the Cyprus injunction proceeding
14 was filed. September 17th, the -- what is, in effect, the TRO
15 in place was put in place. On November 1st, there was a
16 briefing schedule in place suggested -- excuse me.

17 I don't think -- I believe it was six weeks prior.

18 September 27th, excuse me. On September 27th, the
19 November 17th date was set by Denoro in the Cyprus court.

20 So he's been under surveillance here in Los Angeles
21 per Mr. Wiist's declaration since mid-September. And if there
22 truly was an exigent circumstance, then you would think, number
23 one, this would have been brought sooner; and number two, that
24 six weeks wouldn't have been set for this hearing on November
25 17th by Denoro on September 27th.

1 And so for all of these factors, I think there is no
2 exigent circumstance that is not at least at part if not wholly
3 created by Denoro.

4 And, Judge, I would make the following representation
5 about the comment by counsel that this is a simple, one-day
6 event. Obviously, Judge, we have spent substantial amounts of
7 time preparing an opposition. If it were only tied to this
8 Cyprus and it didn't have an impact on everything else ongoing,
9 we wouldn't do this. The reason why we are contesting and
10 moving to quash is not because Mr. Egiazaryan wants to spend a
11 substantial amount of money having counsel in here fight over a
12 one-day deposition. We're here because of all of these other
13 moving pieces in place. And it is -- it would occur at a very
14 delicate time in the London arbitration -- just -- the
15 procedures have not yet begun. It's not even at issue. We
16 just received two days ago the response to the request for
17 arbitration. And the preliminary stage that this Cyprus is at
18 and, I think, again this factor alone wouldn't govern and
19 shouldn't govern the Court's assessment of the case. But it is
20 one of a number of factors that give you the picture, the
21 holistic approach which we think that the Supreme Court Intel
22 was encouraging us to follow.

23 And with that, I think I would turn to this billions
24 of dollars issue because we did think this was going to come
25 up. We made a chart, and I'm going to actually have Mr. Shore

1 -- can you give a copy (indiscernible)

2 Let's put this right here.

3 **MR. SPEAKER:** Your Honor, may I approach the Clerk
4 for a copy for you?

5 **MR. MANSFIELD:** Your Honor, I --

6 **THE COURT:** I'm not sure --

7 **MR. MANSFIELD:** Obviously, they spent some time on
8 this chart but we were never provided this before just now.

9 **THE COURT:** I'm not sure it's going to be helpful to
10 me. I mean, I understand the general transaction at issue.
11 Why don't you just make your point without it; and then if I
12 need it, I'll tell you.

13 **MR. SUH:** Judge, I think the central point is is that
14 the -- that Denoro which is the red box holds with others
15 Limerick (phonetic), which is a BVI (phonetic) company, which
16 holds Tribolen (phonetic), which is a Cypriot company, which
17 holds Decorum (phonetic). And Decorum is the entity that held
18 the Decmos (phonetic) shares. Decmos is the entity that had as
19 its asset the Mosclo Hotel (phonetic). And the -- Decorum
20 liquidated the Decmos shares --

21 **THE COURT:** I understand what you're saying.

22 **MR. SUH:** -- on September 17th. So there are no --
23 there aren't billions of dollars. What there are, Judge, is
24 there are notes but the notes don't total anywhere near a
25 billion dollars. They total about \$80 million. And, frankly,

1 because they are held by entities that are controlled by Mr.
2 Carimav, it is -- they are essentially not at issue here. We
3 don't believe at this juncture that the issue has anything to
4 do with billions of dollars. It would be wonderful if there
5 were billions of dollars in Denoro that were actually frozen.
6 That's simply not the case.

7 We had, in fact, -- we're -- the reason why we
8 wanted, in fact, this injunction against all these entities
9 because at the time that it was put in place we didn't know.
10 And we also don't know how funds will get transferred in and
11 out of these entities if that occurs at a later date. So
12 that's -- I'm just saying that because they may answer the
13 question well if, Mr. Suh, there's no shares in there. Why
14 don't you just release the injunction and have this be done
15 with? Although we have considered that, I think the concern is
16 that we don't know where all this money is being transferred in
17 and out of. And it is an entity that could be used for this
18 purpose and we're trying to be very careful on how we proceed,
19 given the large amount of money at issue in the Lemon
20 (phonetic) arbitration.

21 And I think -- and just to follow up on that, no
22 Denoro officer or employee or director has submitted a
23 declaration here. We think in large part this procedure is a
24 way to prevent that from happening in the Cypriot court; which,
25 again, is a stratagem that should not be given credence by this

1 court.

2 **THE COURT:** Mr. Mansfield. Thank you.

3 **MR. MANSFIELD:** Thank you, your Honor. Just a couple
4 of sort of clean-up points.

5 There's no evidence or declaration submitted on any
6 of this. This is argument. We weren't given this last night.
7 They obviously spent some time preparing the chart. There's
8 nothing in the record to support it.

9 **THE COURT:** I'll let you go over the chart. I hear
10 the argument.

11 **MR. MANSFIELD:** And the argument as well is not
12 supported by anything in the record.

13 Also, very briefly. This issue of the time it took
14 to do the surveillance to meet the perfunctory first step of
15 the application. The standard that we had to prove was whether
16 he lives in the district. Out -- you can see someone a number
17 of times in an area and they might be visiting and we certainly
18 wouldn't want to jump the gun because we know what they would
19 claim if we did. So obviously some decision was made at a
20 point when they thought that determination could be made. So
21 the notion that this wasn't exigent and it wasn't important and
22 we weren't moving diligently is simply not correct.

23 Now, the key point, the key point that I think was
24 discussed is the declarations, the opposing declarations. And
25 there were comments, criticisms made of our declarant because

1 his deposition was rather general in saying that the transcript
2 could be used in the Cypriot court proceeding.

3 Well, I would say this. There's clearly a
4 disagreement among experts of Cypriot law. It will ultimately
5 have to be decided there. However, what's most important is
6 the argument or the reasoning presented by their expert is
7 inconsistent with the standards for 1782. All of those
8 detailed paragraphs and the references to Cypriot civil
9 procedure are missing the point. It's not the point when you
10 go to the law that interprets 1782 Intel and Servicio Pan
11 Americano (phonetic). Again, page 6, interpreting Intel, the
12 Supreme Court recognized in Intel that a foreign court's
13 procedural discovery limitations, allowed to take depositions -
14 - whatever the other ones are -- as opposed to substantive
15 limits on admissibility for privilege or other reasons, should
16 not prevent a district court from enabling a foreign litigant,
17 Denoro, to obtain admissible evidence under 1782. So all the
18 detail arguments about their rules of civil procedure missed
19 the point. To the extent the declarants disagree on whether
20 it's admissible, the Cypriot court will make that decision and
21 they will make whatever is the correct decision based on what
22 they're presented.

23 I would like to make one other point that I think has
24 sort of maybe gotten lost or I haven't featured before and that
25 is, we have a deposition. The deposition is going to be

1 helpful in attacking the freezing order. The deposition is
2 also going to be helpful because the information learned will
3 lead to the discovery of other evidence, documents, other
4 witnesses, other things that we can do in challenging it. So
5 there are multiple purposes and benefits that this foreign
6 evidence gathering through 1782 provides to Denoro in order to
7 avail itself of its first upcoming opportunity to challenge
8 this freezing order and we've urged the court to allow the
9 deposition to go forward.

10 **THE COURT:** Do you want to make one brief comment or?

11 **MR. SUH:** Very brief, Judge.

12 **THE COURT:** Okay.

13 **MR. SUH:** I find Mr. Mansfield's last comment a
14 little inexplicable because that seems to favor exactly the
15 reason why a deposition shouldn't be ordered if it's for wide
16 ranging discovery which is not contemplated at all in the
17 Cypriot structure. And again, I think it brings us back to
18 this: It's not the type of discovery that is available. Not
19 whether or not the deposition -- a deposition is available.
20 The issue is whether or not the evidence is available for the
21 purposes that they want to use it. And the evidence, which is
22 -- this is the first I've heard there's some other reason they
23 want to get a Section 1782 deposition -- but for the purpose of
24 attacking Artem Egiazaryan's affidavit, that evidence is
25 available. That evidence is the cross examination Artem

1 Egiazaryan. And with that we would submit, your Honor.

2 **THE COURT:** All right. Thank you-all.

3 I'm going to need until about 2:00, 2:30 to issue a
4 ruling. If I do order the deposition to go forward, it will
5 have to commence sometime mid-afternoon and go until completed.
6 And that's not to indicate that I'm about to order the
7 deposition to go forward but I'm just telling you I can't rush
8 myself more than I have and I need to review some things before
9 I make, hopefully an intelligent ruling. Obviously it's not
10 going to be a lengthy written ruling because I -- well, it's
11 not going to be a lengthy written ruling. And if I prohibit
12 the deposition from going forward then Denoro may wish to seek
13 review of that immediately, so that's another reason that I
14 don't want to promise any kind of a lengthy written ruling.

15 And finally, if I do permit the deposition to go
16 forward, I'd like counsel to be available telephonically to
17 discuss any need for a protective order or any other details.
18 Am I sufficiently opaque about how I'm going to rule (laughs)
19 because I really don't know.

20 Any questions?

21 **MR. SUH:** No, your Honor. Just to be clear that if
22 it is possible that the court orders a deposition, that we will
23 have an opportunity to address some of the protective order
24 issues --

25 **THE COURT:** Right.

1 MR. SUH: -- telephonically.

2 THE COURT: Right.

3 MR. SUH: And we would also, if the court is thinking
4 along those lines -- we didn't get to this point but there are
5 certainly less intrusive ways than to conduct a videotaped
6 deposition in person. Perhaps one of those would even be a
7 written series of questions. There are a lot of ways to skin
8 this cat. And at the end of the day, I think one of the things
9 we need to do and we will assert to the court we will do is
10 immediately begin to get to the bottom of these allegations in
11 Russia because that may cover a lot of what they seek to
12 discover.

13 THE COURT: All right. Thank you-all very much.

14 MR. SUH: Thank you, Judge.

15 MR. UNIDENTIFIED: Your Honor, there is one other
16 housekeeping issue. Mr. Elliott Lauer (phonetic) has a pro
17 hoc --

18 THE COURT: Yes, I signed both of those.

19 MR. UNIDENTIFIED: I think there were three in total.

20 THE COURT: Oh, I only saw two.

21 MR. UNIDENTIFIED: There's Mr. Shore (phonetic),
22 there was Mr. Butler -- which I have these two.

23 THE COURT: I'm sure I'll sign the third one but I've
24 signed two.

25 MR. UNIDENTIFIED: Okay.

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THE COURT: Okay.


(Attorneys thank the Court)

Thank you.

(Proceeding adjourned at 11:17 a.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in cursive script, appearing to read "Toni Hudson", is written above a horizontal line.

Signed

November 15, 2010

Dated

TONI HUDSON, TRANSCRIBER